


REQUEST FOR ACTION

To: Mark de Bie, Deputy Director
Waste Permitting, Compliance & Mitigation Division

From: 
Kevin Taylor, Manager
Permits & Assistance North Section
Permitting & Assistance Branch

Request Date: January 26, 2016

Decision Subject: Concurrence on Proposed Modified Full Solid Waste Facilities Permit for BFI Newby Island Recyclery, City of San Jose, SWIS No. 43-AN-0014

Action By: March 20, 2016

Summary of Request: This is a request that the Deputy Director take action on a proposed Solid Waste Facilities Permit for the BFI Newby Island Recyclery, SWIS No. 43-AN-0014, located in the City of San Jose. Staff's findings and recommendations are provided relative to the proposed action.

The proposed permit was initially received on November 3, 2015. A new proposed permit was received on January 20, 2016. Action must be taken on this proposed permit no later than March 20, 2016. If no action is taken by March 20, 2016, the Department will be deemed to have concurred with the issuance of the proposed permit.

The City of Milpitas submitted a letter to CalRecycle dated January 25, 2016 requesting the Department not concur with the issuance of the proposed modified permit, citing concerns regarding Section 16 – Self-Monitoring relative of odor complaints. The language in Self-Monitoring Section 16 (b) is consistent with the requirements in Title 14, Section 17414(e) which indicates that the operator shall record any written public complaints received by the operator. Section 16 (b) adds additional requirements by including all complaints, not just those from the public, and a requirement for direct noticing of the LEA regarding confirmed complaints. Neither the LEA nor CalRecycle have statutory jurisdiction to address odor issues at transfer processing stations and it would be beyond both agencies authority to craft permit conditions dealing with odor. The Bay Area Air Quality Management District is the public agency with odor jurisdiction.

Recommendation: Based on our review of the submitted permit package, staff recommends the Deputy Director concur with the issuance of the permit. All of the required submittals and findings required by Title 27, Section 21685 have been made and the required CEQA findings have been made in support of concurrence. These findings are summarized in the table found in the Permitting and Assistance Branch Staff Report attachment. The documents on which staff's findings are based are in the facility files. Details on the findings are presented in more detail in the attached Permitting and Assistance Branch Staff Report.

Deputy Director Action: On the basis of the information and analysis in this Request for Action and the findings set out in the Permitting & Assistance staff report, I concur in the issuance of the Modified Full Solid Waste Facilities Permit for the BFI Newby Island Recyclery, SWIS No. 43-AN-0014, as proposed.

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Dated: January 26, 2016



Mark de Bie, Deputy Director
Waste Permitting, Compliance & Mitigation Division
Department of Resources Recycling and Recovery (CalRecycle)

Attachments: Proposed Permit
Permitting & Assistance Branch Staff Report